

REMARKS

Claims 1-10 remain in connection with the present application, with claims 1 and 8 being independent.

Preferred Embodiment of the Present Application

The present application, in a preferred embodiment, is directed to a multipole low-voltage circuit breaker including a bearing assembly, and to a bearing arrangement including the bearing assembly itself. An arrangement is presented for positioning a control shaft, which is provided respectively with two coupling levers arranged for a mechanical connection of a moveable switching contact. A first subregion of a bearing body is arranged between the two coupling levers and forms side-guide surfaces for the two coupling levers. As such, the control shaft is thus positioned at a point of contact for the switching forces and is clearly positioned axially.

Prior Art Rejections

The Examiner has rejected claims 1-10 under 35 U.S.C. § 103 as being unpatentable over Miura et al. (U.S. Patent No. 5,025,236) in view of Dahl et al. (U.S. Patent No. 6,492,888). This rejection is respectfully traversed.

Initially, Applicants respectfully submit that even assuming *arguendo* that Miura et al. and Dahl et al. could be combined, which Applicants do not admit, the alleged combination of references would still fail to teach or suggest at least a bearing assembly as set forth in claim 1 for example, wherein “a first subregion of the bearing body is arranged between the coupling levers and forms side-guide surfaces for the coupling levers”. Somewhat similarly, with regard to the multipole low-voltage circuit breaker of claim 8, even assuming *arguendo* that the references could be combined, they would still fail to teach or suggest at least a bearing assembly

wherein “a first subregion of the bearing body is arranged between the coupling levers and forms side-guide surfaces for the coupling levers”.

With regard to Miura et al., this reference is directed to an electrical switch with three switching poles that are separated by dividing walls 1a. Each of the switching poles is a contact 4 that is held by a holder 10. Respectively, two adjacent holders 10 are connected through a wavy section 11, wherein both wavy sections 11 and the three holders 10 form integral components of a plastic part. Recesses 20 in the dividing walls 1a as well as positioning parts 23 that engage in the recesses 20 in the manner of a tongue and groove connection serve to position this plastic part. The two wavy sections are each enclosed by a section of one of the two recesses 20 and one the two positioning parts 23 in the manner of a half shell. The plastic part is positioned in the region between the connecting points for two adjacent holders 10 – and thus, the two adjacent switching poles – on the plastic part.

Thus, contrary to the configuration set forth in claims 1 and 8, calling for a first subregion of a bearing body “being arranged between the coupling levers and forming side-guide surfaces”, which results in a control shaft position in a point of contact for the switching forces in being positioned axially, the positioning in Miura et al. clearly occurs outside of the contact point for the switching forces.

In contrast to the Examiner’s opinion set forth in the Office Action, neither the intermediate walls 1a nor the positioning parts 23 serve as side-guides for the holders 10. Arguably, the Figure 2(a) shows that one side of the holders 10 that are allocated to the outer poles, is positioned at a distance opposite one of the dividing walls 1a. However, it does not follow from the teachings of Miura et al. that this is used for axial positioning of the plastic part. Rather, the actual teachings of the reference itself would lead one of ordinary skill in the art

away from allocating side-guides services of the positioning part to the plastic part, since these alleged guide services are already allocated to collars 26 and lead to trouble-free axial positioning of the plastic part. More specifically, the axial positioning, the plastic part is provided with one collar 26 in the region of the two wavy sections 11, wherein each of the two plastic parts has a groove which forms side-guide surfaces for the associated collar 26 that is connected to the wavy sections 11. Such a teaching away actually leads one away from the claimed invention and is an indicia of non-obviousness. See *In re Gurley*, 31 USPQ 2d 1130 (Fed. Cir. 1994).

Accordingly, for at least these reasons, Applicants respectfully submit that Miura et al. fails to teach or suggest at least the aforementioned limitation of claims 1 and 10.

With regard to Dahl et al., Applicants respectfully submit that even assuming *arguendo* that Dahl et al. could be combined Miura et al., which Applicants do not admit, Dahl et al. would still fail to make up for at least the aforementioned deficiencies of Miura et al. for at least the following reasons.

Dahl et al. describes a low-voltage power switch with a control shaft for the joint operation of several contact lever supports that carry contact levers, which includes a positioning arrangement for the control shaft. Each of the contact levers supports is respectively connected via two coupling levers to the control shaft. A main positioning body for the positioning arrangement has a cylindrical partial region, completely surrounding the control shaft, which is arranged between the two coupling levers and positions the control shaft in the region of the contact point for the switching forces. The cylindrical partial region forms side-guide surfaces for the coupling levers, so that a one-piece control lever arguably is positioned axially, but would also be inseparably connected to the main bearing body.

Accordingly, the control shaft of Dahl et al. is therefore formed with two partial sections 2a and 2b, wherein each of the partial sections carries one of the two coupling levers. The main body forms only one side-guide surface at best for each of the levers and thus, for each of the partial sections 2a and 2b. Additional bearing bodies are required for clear axial position of the two partial sections.

Accordingly, Applicants respectfully submit that Dahl et al. fails to make up for at least the aforementioned deficiency of Miura et al., with regard to each of claims 1 and 8, even assuming *arguendo* that the references could be combined.

Even starting with the Dahl et al. reference, a person of ordinary skill in the art would not even consider the Miura et al. reference since the control shaft in Miura et al. is not positioned in the region where the holder 10 connecting points to the plastic part are located. Instead, it is positioned in the region between two connecting points. However, even if one of ordinary skill in art were to take Miura et al. into consideration, the person of ordinary skill in the art would only be stimulated, at best, to position the control shaft in the region of the dividing walls and thus, half-shell recesses would be provided into dividing walls and half-shell positioning parts would be allocated thereto. However, Applicants respectfully submit that Miura et al. does not even contain any reference to providing half-shell positioning parts in the region of the coupling points for the holder. Accordingly, for at least these reasons, Applicants respectfully submit that either one of ordinary skill in the art would not be led to combine the teachings of Miura et al. with those of Dahl et al., or even assuming *arguendo* that the references could be combined, the alleged combination would still fail to teach or suggest at least the aforementioned limitations of independent claims 1 and 8 of the present application.

Still further, Applicants respectfully submit that the Examiner has not provided a *prima facie* case of obviousness under 35 U.S.C. § 103. To establish obviousness based on a combination of elements disclosed in the prior art, there must be some motivation, suggestion, or teaching of the desirability of making this specification combination that was made by the Applicants. The motivation, suggestion, or teaching may come explicitly from the statements in the prior art the knowledge of one of ordinary skill in the art, or in some cases, the nature of the problem to be solved. See *In re Dembiczak*, 50 USPQ 2d 1614 (Fed. Cir. 1999).

In the present case, the Examiner has merely indicated his opinion, based in hindsight on Applicants' invention, by alleging that it would have been obvious to include a subregion bearing support for the shaft of Miura et al., as suggested by Dahl et al., for the purpose of evenly distributing the shaft load. This opinion or speculation is not evidence of motivation, teaching, or suggestion for one ordinary skill in the art to combine the teachings of Miura et al. and Dahl et al.

In order to make a proper combination of references, the Examiner must provide evidence as to why one of ordinary skill in the art would have been motivated to select and combine the referenced teachings. Relying on common knowledge or common sense of a person of ordinary skill in the art without any specific hint or suggestion of this in a particular reference is not a proper standard for reaching the conclusion of obviousness. See *In re Sang Lee*, 61 USPQ 2d 1430 (Fed Cir. 2002). If the Examiner is relying on personal knowledge to support a finding of what is known in the art, the Examiner must provide an affidavit or declaration setting forth specific factual statements and explanations to support the finding. See 37 C.F.R. § 1.104(d)(2) and MPEP 2144.03(c). Accordingly, Applicants respectfully challenge the

Examiner's rejection and request the Examiner to withdraw the rejection or to provide an affidavit or declaration as set forth above if the rejection is to be maintained.

Accordingly, withdrawal of the Examiner's rejection with regard to independent claims 1 and 8 is respectfully requested. With regard to the remaining dependent claims, Applicants respectfully submit that these claims are allowable for at least the reasons previously set forth regarding their corresponding independent claims.

CONCLUSION

Accordingly, in view of the above remarks, reconsideration of the outstanding rejection and allowance of each of claims 1-10 in connection with the present application is earnestly solicited.

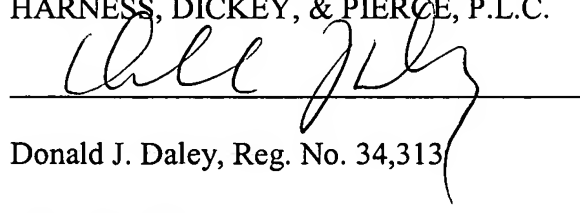
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKY, & PIERCE, P.L.C.

By

A handwritten signature in dark ink, appearing to read "Dale J. Daley", is written over a horizontal line.

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